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6 UNITED STATES DISTRICT COURT
 7 EASTERN DISTRICT OF WASHINGTON

8 UNITED STATES OF AMERICA,)

9 Plaintiff,)

10 vs.)

11 JERAD JOHN KYNASTON,)

12 Defendant.)

12-CR-00016-WFN-1

United States' Response to
 Motion for Notice of
 Government's Intent to
 Introduce FRE 404 Evidence at
 Trial

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 14 Plaintiff, United States of America, by and through Michael C. Ormsby,
 15 United States Attorney for the Eastern District of Washington, and Russell E.
 16 Smoot, Assistant United States Attorney for the Eastern District of Washington,
 17 respectfully submits the United States' Response to Motion for Notice of
 18 Government's Intent to Introduce FRE 404 Evidence at Trial.

19 RESPONSE

20 The United States does not object to the Defendant's request for Notice of
 21 Fed. R. Evid. 404(b) evidence. The United States does, however, object to the
 22 Defendant's request that "all" such evidence be noticed within 30 days of trial. It
 23 is not uncommon that previously unknown Fed. R. Evid 404(b) evidence is
 24 disclosed during trial preparation interviews. As such, the United States

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 27 FRE 404 Evidence at Trial - 1

1 respectfully submits that the standard set forth in Fed. R. Evid. 404(b), specifically
2 “reasonable notice in advance of trial, or during trial if the Court excuses pretrial
3 notice and good cause shown,” will suffice.

4 DATED May 18, 2012.

5 Michael C. Ormsby
6 United States Attorney

7 *s/Russell E. Smoot*

8 Russell E. Smoot
9 Assistant United States Attorney

1 I hereby certify that on May 18, 2012, I electronically filed the foregoing
2 with the Clerk of the Court using the CM/ECF System which will send
3 notification of such filing to the following, and/or I hereby certify that I have
4 mailed by United States Postal Service the document to the following non-
5 CM/ECF participant(s):

6
7 Robert R. Fischer
8 Federal Defenders of Eastern Washington and Idaho
9 10 North Post Street, Suite 700
10 Spokane, WA 99201

11 *s/Russell E. Smoot*

12 Russell E. Smoot
13 Assistant United States Attorney
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